

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

KENNETH A. CRARY,
Plaintiff,
vs.
SCOTT FRAKES,
Defendant.

NO. CV-07-5015-CI

ORDER ADOPTING REPORT AND
RECOMMENDATION AND DISMISSING
COMPLAINT

1915 (g)

BEFORE THE COURT is Magistrate Judge Imbrogno's Report and Recommendation to dismiss Mr. Crary's complaint without prejudice for failure to state a claim upon which relief may be granted under 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1), and to count such dismissal as one of the dismissals under 28 U.S.C. § 1915(g). A copy of the Report and Recommendation was sent to Plaintiff on August 30, 2007, and again on September 6, 2007. Plaintiff, a prisoner at the Washington State Penitentiary, has filed nothing further in this action.

There being no objections, the Court **ADOPTS** the Report and Recommendation. The complaint is **DISMISSED WITHOUT PREJUDICE** for failure to state a claim upon which relief may be granted.

Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who brings three or more civil actions or appeals which are dismissed as frivolous or for failure to state a claim will be precluded from

1 bringing any other civil action or appeal *in forma pauperis* "unless the
2 prisoner is under imminent danger of serious physical injury." 28
3 U.S.C. § 1915(g). Plaintiff is advised to read the new statutory
4 provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff's
5 complaint may count as one of the three dismissals allowed by 28 U.S.C.
6 § 1915(g) and may adversely affect his ability to file future claims.

7 **IT IS SO ORDERED.** The District Court Executive is directed to
8 enter this Order, forward a copy to Plaintiff at his last known address,
9 enter judgment, and close the file. The District Court Executive is
10 further directed to forward a copy of this Order to the Office of the
11 Attorney General of Washington, Criminal Justice Division.

12 **DATED** this 4th day of October 2007.

13
14 S/ Edward F. Shea
15 EDWARD F. SHEA
16 UNITED STATES DISTRICT JUDGE

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